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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,525	01/25/2001	Michael Hrabik	881075/3	5856

7590

10/17/2005

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EXAMINER
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JACKSON, JENISE E

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/770,525

Applicant(s)

HRABIK ET AL.

Examiner

Jenise E. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-30, 32-35 and 39-41 is/are rejected.
- 7) ☒ Claim(s) 31, 36-38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10032005.
- ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. 10032005.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 24-27, 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 24, 34, recites wherein the first communication medium is connected only to the security subsystem and to the master system, and not to any of the network devices. Claim 24, is not described in the specification. In the specification on page 5, the subsystem is connected via a secure link to a master system that is not otherwise connected to the target system. Claim 24 is not disclosed in the specification. Further, a first communication medium is not disclosed anywhere in the specification. Claim 25, is not enabled, what is disclosed is, if the subsystem detects an attack on the target network, or does not respond to the master system, the master system will take appropriate action, ranging from logging the incident or notifying a network manager to shut down the network(see pg. 5 of spec). The attack in the disclosure refers to the subsystem; Claim 25 is not disclosed in the specification. As per claim 26, there is disclosed a second communication medium. In the specification, on page 7, what is disclosed is a secure link that may be established through an encrypted communication protocol. Claim 26, is rejected under 112 1<sup>st</sup>. Claim 27 is rejected under 112 1<sup>st</sup> because it is dependent on claim 26.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23, 28-29, 33, 40-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Emigh.

5. As per claims 23, 33, Emigh teaches a security system(i.e. netranger sensor) for a computer network, the network having a plurality of devices connected thereto (see lines 1-4, 28-30), a security subsystem connected to at least some of the devices in the network(see lines 28-30), the security subsystem configured to monitor activities of the at least some devices on the network(see lines 28-32), and detect attacks on the at least some devices(see lines 33-36); a master system(i.e. IBM's Network Security Operations Center(NSOC) which monitors the integrity of the security subsystem and registers information pertaining to attacks detected by the security subsystem(see lines 1-6, 37-43); and a first communication medium, inherent in Emigh, because Emigh teaches that if a misuse is found it can be sent in real-time to the NSOC in Boulder, Colorado(see lines 33-36), connected between the security subsystem and the master system(see lines 33-36), the master system monitoring the integrity of the security subsystem and receiving the information pertaining to the attacks thorough the first communication medium(see lines 1-6, 37-43).

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6. As per claim 28, Emigh teaches the master system is hierarchically independent from the security subsystem(see lines 1-6).

7. As per claim 29, Emigh teaches that the security subsystem is hierarchically subordinate to the master system(see lines 28-32).

8. As per claims 40, Emigh inherently teaches at lest one of the devices having a security related functions is a firewall, because Emigh teaches that the sensor can be located on places of the internet or intranet connections (see lines 28-32).

9. As per claim 41, Emigh teaches wherein at least one of the devices having security related functions is a network intrusion detection system(see lines 1-6).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 30, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emigh in view of Messmer.

12. As per claims 30, 39, Emigh is silent on wherein the first communication medium is a secure link defined by a virtual private network tunnel; however, Messmer teaches the link it output in encrypted form(i.e. vpn). It would have been obvious to one of ordinary skill in the art at the time of the invention to include a secure link by a virtual private network tunnel of Messmer with Emigh, the motivation is that network activity is output in encrypted form and prevents hackers or intruders from viewing information(see Messmer).

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13. Claims 32, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emigh in view of Kurtzberg.

14. As per claim 32, 35, Emigh teaches a master system(see lines 5-6), security subsystem(see lines 1-4), detecting attacks(see lines 33-36). Emigh does not teach a pseudo-attack generator, which generates attacks on the network, and determining whether the integrity of the system has been compromised. Kurtzberg et al. discloses a pseudo-attack generator which generates attacks on the network, and determining whether the integrity of the system has been compromised(see col. 1, lines 40-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to include a pseudo-attack generator which generates attacks on the network, and determining whether the integrity of the system has been compromised of Kurtzberg with Emigh, the motivation if that the integrity of a computer system can be tested reliably to improve or complement the system's performance(see col. 1, lines 65-67 of Kurtzberg).

15. Claims 31, 36, 37-38 are objected to as being rejected on base claims. The reasons why the claims are allowable are because in the prior art of security, networking and non-patent literature, prior art fails to disclose or suggest, when the master system monitors whether the security subsystem responds to the master system, the master system taking action. The master system monitors the security subsystem in prior art and all data for network devices is transmitted to the master system, there is no suggestion or disclosure of this limitation.

***Response to Amendment***

16. The Applicant states that the office action does not make clear what the limitation of the security subsystem is, in regards to the prior art that was used to reject claims. The Examiner

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disagrees with the Applicant. The Examiner makes it clear what the security subsystem is, in Emigh, it is the netranger sensor(see pg. 3 of previous rejection). The Applicant has provided art to argue or disprove the art that was used to reject claims. First of all, the Examiner reviewed the art that was supplied; however, the art that was supplied has no date. Therefore, this cannot be used to argue the claim limitations. The Examiner will reply to arguments that are presented in view of prior art that was used to reject claims. The netranger sensor of Emigh, does monitor devices, because Emigh teaches the netranger sensor is placed on corporate network such as Internet and Intranet connections. The Applicant states that Emigh does not teach that the NSOC monitors the integrity of the netranger sensor. The Examiner disagrees with the Applicant. Emigh teaches that from Boulder, IBM(i.e. master system) will conduct monthly testing of network devices like web servers for vulnerability.

17. Second, the Applicant has requested an interview prior to formal action on this response. The Applicant has already requested an interview in response to the non-final office action, and an interview was conducted on May 12. Thus, an interview was already conducted in light of the office action, any subsequent interview conducted is at the discretion of the Examiner. Further, an interview summary sheet was provided to the Applicant and the Applicant's Representatives after the interview was conducted. The Examiner has included another interview summary of the interview that was conducted on 5/12/05.

18. As per claims 24-27, and 34, the Applicant is arguing that a secure link and a communication medium is the same thing. The Examiner disagrees with the Applicant. The Applicant is claiming a communication medium than it needs to be disclosed in the specification. The 112 rejection stands.

***Final Action***

**19. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenise E. Jackson whose telephone number is (571) 272-3791. The examiner can normally be reached on M-Th (6:00 a.m. - 3:30 p.m.) alternate Friday's.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
October 3, 2005

  
Primary Examiner  
AU 2131  
10/9/05